



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,441	10/15/2001	Cole Williams	99047A	5015

7590 01/30/2004
James E. Brunton, Esquire
Suite 860
700 N. Brand Blvd.
Post Office Box 29000
Glendale, CA 91203

EXAMINER

AFTERGUT, JEFF H

ART UNIT PAPER NUMBER

1733

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,441

Applicant(s)

WILLIAMS, COLE

Examiner

Jeff H. Aftergut

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on December 11, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1733

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT WO 98/19569 or Williams '226 further taken with either one of Town or PCT WO 92/07480 and any one of Harreld et al, Baker et al or Mathis et al for the same reasons as presented in paper no. 2, paragraph 2.

Response to Amendment

3. The declaration under 37 CFR 1.132 filed December 11, 2003 is insufficient to overcome the rejection of claims 1-14 based upon PCT WO 98/19569 or Williams '226 further taken with either one of Town or PCT WO 92/07480 as set forth in the last Office action because: the claims as presented are not commensurate in scope with the arguments and/or evidence presented.

More specifically, the declaration expressed that the "gauze-like" surface of the bladder was formed as a function of the application of adhesive over the entire inner and outer surface of the bladder material and the application of heat and pressure which melted the adhesive and shaped the adhesive and bladder against the smooth mandrel during the assembly operation. The claims at hand, however make no mention of the melting of the adhesive on the inner surface of the bladder during the application of heat and pressure against the mandrel nor is there any indication that the adhesive and bladder were shaped against a smooth mandrel to facilitate the

Art Unit: 1733

formation of the "gauze-like" surface of the bladder to allow for better fit against the skin of the wearer. The claims merely recite that a "bladder having an upper portion having a smooth, glazed extremity engaging portion for sealingly engaging a portion of the wearers extremities" was provided at for example lines 8-9 of claim 1. There is no indication that the smooth glazed extremity engaging portion of the bladder was formed using the claimed process where the glazed-like surface was provided during the shaping step where the adhesive was melted with heat and pressure was applied to shape the same against the smooth surface of the mandrel.

Additionally, as previously noted, the same bladder material and same adhesive coating were provided in the prior art. It is believed that like materials must have like properties and it is seen as intrinsic that the bladder of the prior art with the adhesive coating thereon would have had a glaze-like surface finish therein. The applicant is advised that the prior art references suggested that one skilled in the art additionally would have applied heat and pressure against a mandrel to shape and join the various layers together. The applicant is advised that one skilled in the art would have been led additionally to provide the bladder with a smaller dimension than the exterior fabric layer as well as a greater dimension than the interior fabric layer in light of the teachings of any one of Town or PCT '480 who both provided the inner layer of the article of clothing with a shorter length than the exterior layer of material as well as provided that the middle ply of material was shorter in length than the exterior ply but longer than the interior ply. One providing a mandrel and sealing the layers together according to the processing of PCT '569 or Williams '226 would have readily recognized that the application of heat and pressure during this operation would have melted the plastic on the bladder and resulted in shaping the interior surface of the bladder against the mandrel. As the same mandrels were employed in the prior art

Art Unit: 1733

as that suggested by applicant (a smooth mandrel), one would have necessarily provided the interior surface of the article of clothing at the upper portion of the bladder with a glazed like surface.

Response to Arguments

4. Applicant's arguments filed December 11, 2003 have been fully considered but they are not persuasive.

The applicant essentially argues that the claimed method is different not only in the use of a different arrangement of the layers on the mandrel but also a difference in kind as a function of the melting of the adhesive present on the bladder which is shaped with heat and pressure to conform the surface of the mandrel and present a glazed-like surface after processing which was not taught or suggested by the prior art of record. The applicant is advised that the claims at hand do not reflect this inasmuch as the claims presented merely provide the smooth glazed extremity engaging portion for the upper portion of the bladder rather than form the smooth, glazed extremity engaging portion.

Additionally, while it is seen that it is possible that the processing proposed by applicant resulted in the specified smooth surface, the prior art of record appears to have suggested the application of the same heat and pressure while the layers were disposed upon a mandrel to join the same together wherein the same bladder materials as well as the same adhesive materials were employed in the processing. The applicant is advised that processing the materials in the same manner would have necessarily resulted in the same effect. The applicant is additionally advised that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the specific lengths for the various layers in light of the teachings

Art Unit: 1733


of the references to either one of Town or PCT '480. Provision of the same would have resulted in the shaping of the bladder against the mandrel in the fashion recited in the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1212.


Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
January 27, 2004